

On June 9, 1997, less than fourteen days after the entry of the above-referenced Order, the situation that BellSouth sought to avoid has come to pass. AT&T has selectively utilized the language from the Commission's original Order, as well as this Commission's decision not to clarify that language in subsequent orders, to argue that it is entitled to order combinations of UNEs that replicate BellSouth services and to have this reconstituted service at the total of the UNE prices. Amazingly, in arguing for this, AT&T has characterized all of the Commission's Orders, including those quoted above, as supporting the singularly misguided proposition that it is entitled to recombine UNEs in a way that replicates BellSouth's retail service and to thereby undercut the resale prices of those services. It is interesting that after relying so heavily on this Commission's uncertainty as to whether this recombination is currently possible, AT&T has definitively demonstrated that it believes it can be done by demanding that it immediately be done. It is also noteworthy that so soon after AT&T characterized the eventuality of this pricing conflict as remote and speculative, it acted to make it come to pass.

AT&T's mischaracterizations notwithstanding, the fact remains that this Commission has not ruled on the price of elements that are recombined to recreate BellSouth services. For this reason, AT&T should not be allowed to attempt to utilize the portions of this Commission's rulings that are favorable to its position while ignoring the portions of this Commission's Orders that contradict its argument to bring about a result that is clearly not intended by this Commission's Orders.

Again, this Commission has stated that it has not ruled on the price of services recreated by rebundling. If AT&T wants to purchase recombined services in this manner, it should negotiate with BellSouth to arrive at the appropriate price. Because BellSouth believes that this is the proper result, BellSouth sent to AT&T a letter on June 10, 1997² in which it invited AT&T to negotiate this currently unresolved issue. (attached as Exhibit A). AT&T responded to BellSouth's invitation with a letter dated June 16, 1997 (attached as Exhibit B). In this letter, AT&T states that its position on the price of rebundled elements is set forth in the subject Motion. For this reason, AT&T asserts that any further negotiations should be limited to "eliminating any duplicate charges when two or more UNEs are combined." (letter, p. 1). This letter is telling in two respects: First, once again, AT&T has acted in precisely the manner that BellSouth was concerned it would. In the Motion to Approve cited above, AT&T contended that the language of § 36.1 could be used as a basis to negotiate the price of recreated services, "if [the issue] ever arises". Now AT&T declines to negotiate anything under the provisions of 36.1 other than the elimination of duplicate charges.

Second, AT&T appears now to categorically refuse to negotiate the price of services recreated through sham unbundling. Instead, AT&T contends, in effect, that the pricing issue is moot. AT&T has a price at which it may purchase individual UNEs, and it plans to replicate existing services with these UNEs in a way that undercuts the resale price of these services. The only difference in AT&T's previous position and its current position is that before it made token acknowledgment of this Commission's

² This letter was sent by BellSouth the day after it signed the Interconnection Agreement, and before being served with a copy of AT&T's Motion.

concerns before dismissing them. Now AT&T ignores these concerns altogether while blatantly acting in a manner that contradicts the clear language of this Commission's prior Orders.

This Commission has specifically noted in at least two previous Orders that it has not set the price for recombined services. AT&T should not be allowed to misuse a part of this Commission's previous Orders to dictate the result of an issue that this Commission has not addressed. Instead, AT&T's Motion should be denied, and it should be directed to negotiate with BellSouth the price of the service.

Further, AT&T's Motion brings into focus a related problem. Although certainly the parties should negotiate this point, AT&T, to date, has refused to do so. Thus, a resolution of this issue by the parties is highly unlikely, which presents a quandary. Even if this Commission properly denies AT&T's attempt to obtain services through sham unbundling at a price that undercuts the resale price, there is nothing to stop AT&T in the future from purchasing the elements separately and then recombining them without BellSouth's knowledge. By doing this, AT&T would be able to ignore the concerns of this Commission and the clear language of the Order on Reconsideration to obtain in a different manner that which it is not entitled to, i.e., recreated services at a price that undercuts the resale price. Thus, in order to prevent action by AT&T that contravenes the Orders of this Commission and the clear statement that the price of recreated service has not been set, AT&T must be prevented from taking the next step and rebundling separately purchased UNEs to undercut resale prices.

Finally, in Paragraph 7 of AT&T's Motion, there is a brief and cryptic description of an alleged failure by BellSouth "to record and to provide the requested UNE data." Although it is difficult to know from Paragraph 7 the precise nature of AT&T's complaint, BellSouth believes that AT&T has requested that BellSouth conduct a trial of the ability to bill services purchased by AT&T at the sham rebundled price. In other words, AT&T not only wants to purchase services at the rebundled UNE price despite the lack of authority to do so, it also wants a trial of the ability of BellSouth to render a bill to AT&T at the unauthorized UNE price. Since this Commission has not authorized AT&T to recombine UNEs to undercut resale prices, BellSouth should not be required to conduct a trial of its ability to render a bill at the improper price.³

WHEREFORE, BellSouth respectfully requests the entry of an Order denying AT&T's Motion, and further ordering that AT&T may not rebundle elements in a manner that replicates existing services unless and until a price is set for this rebundling through negotiation or arbitration.

³ Moreover, BellSouth does not currently have the ability to bill in this manner. That capacity would have to be developed, and this development should not be ordered for the reasons set forth above.

RESPECTFULLY SUBMITTED this 23rd day of June, 1997.

BELLSOUTH TELECOMMUNICATIONS, INC.



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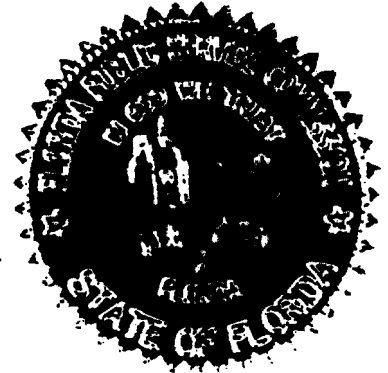
ATTACHMENT 5

SCHWEY CROSS: TYE

MILNER CROSS:
KAUFMAN
WILSON 732
WELSON
HATCH

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of : DOCKET NO. 960786-TL
:
Consideration of BellSouth :
Telecommunications, Inc.'s :
Entry into interLATA services :
pursuant to Section 271 of the :
Federal Telecommunications :
Act of 1996. :



SECOND DAY - MORNING SESSION

VOLUME 7

Pages 732 through 919

PROCEEDINGS: HEARING

BEFORE: CHAIRMAN JULIA L. JOHNSON
COMMISSIONER J. TERRY DEASON
COMMISSIONER SUSAN F. CLARK
COMMISSIONER DIANE K. KIESLING
COMMISSIONER JOE GARCIA

DATE: Wednesday, September 3, 1997

TIME: Commenced at 9:00 a.m.

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: JOY KELLY, CSR, RPR
Chief, Bureau of Reporting
H. RUTHE POTAMI, CSR, RPR
Official Commission Reporters

APPEARANCES:

(As heretofore noted.)

DOCUMENT NUMBER-DATE

FLORIDA PUBLIC SERVICE COMMISSION 8880 SEP-35

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1 CHAIRMAN JOHNSON: We're ready for our next
2 witness.

3 MR. CARVER: BellSouth calls Keith Milner.

4 - - - - -

5 W. KEITH MILNER

6 was called as a witness on behalf of BellSouth
7 Telecommunications, Inc. and, having been duly sworn,
8 testified as follows:

9 DIRECT EXAMINATION

10 BY MR. CARVER:

11 Q Mr. Milner, would you please state your full
12 name and your business address.

13 A Yes. My name is Keith Milner. My business
14 address is 675 West Peachtree Street, Atlanta,
15 Georgia.

16 Q By whom are you employed and in what
17 capacity?

18 A I'm employed by BellSouth
19 Telecommunications, Incorporated as Director of
20 Interconnection Operations.

21 Q Did you cause to be prefiled in this case 41
22 pages of direct testimony, including three exhibits?

23 A Yes, I did.

24 Q And did you also cause to be prefiled 39
25 pages of rebuttal testimony?

1 A Yes.

2 Q Mr. Milner, do you have any changes to your
3 direct or to your rebuttal testimony?

4 A I have one change to my direct testimony.

5 Q And what is that please?

6 A It's on Page 30, at Line 11, to make a
7 correction to the number "140 NPA/NXX codes," the
8 correct number is "130 NPA/NXX codes."

9 Q Do you have any other changes?

10 A No, that's the only change.

11 Q Mr. Milner, if I ask you the questions that
12 appear in your prefiled testimony, would your answers
13 be the same?

14 A Yes, they would.

15 MR. CARVER: Madam Chairman, I'd like to
16 request that Mr. Milner's direct and rebuttal
17 testimony be inserted into the record as though read.

18 CHAIRMAN JOHNSON: It will be so inserted.

19 MR. CARVER: I'd like to have, please, his
20 three exhibits marked for identification.

21 CHAIRMAN JOHNSON: Okay.

22 MR. CARVER: I believe 32 is the next
23 number.

24 CHAIRMAN JOHNSON: Yes, sir, we're on 32.

25 MR. CARVER: He has three, I believe, all

1 together.

2 CHAIRMAN JOHNSON: We'll mark it as a
3 Composite Exhibit 32. Short title, Composite 32 WKM-1
4 through 3.

5 MR. CARVER: Thank you.

6 (Exhibit 32 marked for identification.)

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1 BELLSOUTH TELECOMMUNICATIONS, INC.
2 DIRECT TESTIMONY OF W. KEITH MILNER
3 BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
4 DOCKET 960786-TL
5 July 7, 1997

6
7
8 Q. PLEASE STATE YOUR NAME, ADDRESS, AND POSITION WITH
9 BELLSOUTH TELECOMMUNICATIONS, INC.

10
11 A. My name is W. Keith Milner. My business address is 675 West
12 Peachtree Street, Atlanta, Georgia 30375. I am Director -
13 Interconnection Operations for BellSouth Telecommunications, Inc.
14 ("BellSouth" or "the Company"). I have served in my present role since
15 February, 1996 and have been involved with the management of
16 certain issues related to local interconnection, resale and unbundling.

17
18 Q. PLEASE SUMMARIZE YOUR BACKGROUND AND EXPERIENCE.

19
20 A. My business career spans over 27 years and includes responsibilities
21 in the areas of network planning, engineering, training, administration
22 and operations. I have held positions of significant responsibility with a
23 local exchange telephone company, a long distance company and a
24 research and development laboratory. I have extensive experience in
25 all phases of telecommunications network planning, deployment and

1 Q. HAS BELLSOUTH PROVIDED UNBUNDLED LOCAL SWITCHING
2 FROM TRANSPORT, LOCAL LOOP TRANSMISSION, OR OTHER
3 SERVICES, PURSUANT TO SECTION 271(c)(2)(B)(vi) AND
4 APPLICABLE RULES PROMULGATED BY THE FCC? [ISSUE 7]

5
6 A. Yes. Unbundled local switching is functionally available from
7 BellSouth. BellSouth has a technical service description and has
8 procedures in place for the ordering, provisioning, and maintenance of
9 its switching services. (Volume 6-1). As of June 1, 1997, BellSouth
10 has seven (7) unbundled switch ports in service in Florida, which
11 evidences the functional availability of unbundled local switching from
12 BellSouth. In its nine-state region, BellSouth has 26 unbundled switch
13 ports in service (Volume 6-1).

14
15 Q. PLEASE DISCUSS BELLSOUTH'S ABILITY TO BILL FOR LOCAL
16 SWITCHING.

17
18 A. Unbundled local switching includes a monthly port charge and usage (a
19 per minute charge). A bill for the monthly charges can be system
20 generated. The usage charges, however, contain several components
21 and can vary by distance and the number of switches involved in
22 completing the call. If an ALEC purchases unbundled switching from
23 BellSouth, BellSouth will either render a manually calculated bill or
24 retain the usage until a system generated bill is available, whichever
25 the ALEC elects.

1 CROSS EXAMINATION

2 BY MS. KAUFMAN:

3 Q Good morning, Mr. Milner.

4 A Good morning.

5 Q I'm Vicki Kaufman with the Florida
6 Competitive Carriers Association. I'd like you to
7 turn to your direct testimony, please, Page 21.

8 A Yes. I'm sorry. Yes.

9 Q Lines 21 through 25, please?

10 A Yes.

11 Q And in that passage there you testify, do
12 you not, that BellSouth currently does not have the
13 ability to electronically bill for usage sensitive
14 UNEs; is that right?15 A That's correct. The term "electronically"
16 was used yesterday. I prefer the term "mechanically"
17 to imply something other than a manual process. But,
18 yes, that's correct.19 Q So to just be clear, they don't have the
20 ability to bill electronically or in a mechanized way
21 for usage sensitive UNEs at this point in time?22 A That's correct. For I believe there are two
23 unbundled network elements that have a usage sensitive
24 element as part of that charge, that's correct.

25 Q You heard Mr. Scheye testify yesterday, did

1 you not, in the same vein, that today you do not have
2 the ability to provide a mechanized bill for switching
3 or transport, the usage element?

4 A Yes, I heard that.

5 Q Mr. Milner, you do bill your retail
6 customers, do you not, for usage sensitive services?

7 A It's true that BellSouth has some retail
8 services that include a usage sensitive element to
9 them, yes.

10 Q And this usage sensitive billing is done
11 either on an electronic or mechanized basis for your
12 retail customers?

13 A That's correct.

14 Q Mr. Milner, I'm going to show you some
15 excerpts from the Ameritech order, and I have had it
16 blown up. Ms. Rule is going to assist me. And I also
17 have copies, eight-and-half by elevens for the parties
18 and Commissioners. (Pause)

19 If you would take a minute to review that,
20 please, while Ms. Rule is distributing copies, please.
21 (Pause)

22 MS. KAUFMAN: Madam Chairman, I know we've
23 taken official recognition of the Ameritech order but
24 it might make the record clearer if we could have an
25 exhibit number for these excerpts.

ATTACHMENT 6

BELLSOUTH TELECOMMUNICATIONS, INC.
DIRECT TESTIMONY OF W. KEITH MILNER
BEFORE THE MISSISSIPPI PUBLIC SERVICE COMMISSION
CASE NO. 97-AD-321
September 15, 1997

Q. PLEASE STATE YOUR NAME, ADDRESS, AND POSITION WITH
BELLSOUTH TELECOMMUNICATIONS, INC.

A. My name is W. Keith Milner. My business address is 675 West
Peachtree Street, Atlanta, Georgia 30375. I am Director -
Interconnection Operations for BellSouth Telecommunications, Inc.
("BellSouth" or "the Company"). I have served in my present role since
February, 1996 and have been involved with the management of
certain issues related to local interconnection, resale and unbundling.

Q. PLEASE SUMMARIZE YOUR BACKGROUND AND EXPERIENCE.

A. My business career spans over 27 years and includes responsibilities
in the areas of network planning, engineering, training, administration
and operations. I have held positions of responsibility with a local
exchange telephone company, a long distance company and a
research and development laboratory. I have extensive experience in
all phases of telecommunications network planning, deployment and
operation (including research and development) in both the domestic

1
2 Because unbundled interoffice transport is very similar to the interoffice
3 transport component of special access services that BellSouth has
4 been providing for years, BellSouth reasonably concluded that end-to-
5 end testing of its systems and circuits was not necessary. However,
6 BellSouth did conduct testing which verified that service orders for
7 dedicated transport and unbundled channelization flowed through as
8 planned and that accurate bills were generated.
9
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13 Checklist Item VI

14 Q. IS BELL SOUTH REQUIRED TO MAKE LOCAL SWITCHING
15 UNBUNDLED FROM TRANSPORT AND LOCAL LOOP
16 TRANSMISSION AND OTHER SERVICES AVAILABLE TO CLECs?
17

18 A. Yes, by the requirements of Section 251(c)(3) previously cited.
19

20 Section 271(c)(2)(B)(vi) also requires that BellSouth generally offer
21 "[l]ocal switching unbundled from transport, local loop transmission, or
22 other services."
23
24
25

1 Q. DOES BELLSOUTH'S SGAT ADDRESS LOCAL SWITCHING
2 UNBUNDLED FROM TRANSPORT, LOCAL LOOP TRANSMISSION
3 AND OTHER SERVICES?
4

5 A. Yes. In Section VI of the Statement, BellSouth offers a variety of
6 switching ports and associated usage unbundled from transport, local
7 loop transmission and other services. These include a 2-wire and 4-
8 wire analog port, 2-wire ISDN port and 4-wire ISDN DS1 port, 2-wire
9 DID port and 4-wire DID DS-1 port. Additional port types are available
10 under the Bona Fide Request process. Until a long-term solution is
11 developed, BellSouth provides selective routing on an interim basis to a
12 CLEC's desired platform using line class codes subject to availability as
13 ordered by this Commission.
14

15 Q. HAS BELLSOUTH PROVIDED UNBUNDLED LOCAL SWITCHING
16 FROM TRANSPORT, LOCAL LOOP TRANSMISSION, OR OTHER
17 SERVICES, PURSUANT TO SECTION 271(c)(2)(B)(vi) AND
18 APPLICABLE RULES PROMULGATED BY THE FCC?
19

20 A. Yes. Unbundled local switching is functionally available from
21 BellSouth. BellSouth has a technical service description and has
22 procedures in place for the ordering, provisioning, and maintenance of
23 its switching services. As of July 30, 1997, no CLEC in Mississippi had
24 requested unbundled switch ports. In its nine-state region, however,
25

1 BellSouth has 20 unbundled switch ports in service, which evidences
2 the functional availability of unbundled local switching from BellSouth.

3

4 Q. PLEASE DISCUSS BELLSOUTH'S ABILITY TO BILL FOR LOCAL
5 SWITCHING.

6

7 A. Unbundled local switching includes a monthly port charge and usage (a
8 per minute charge). A bill for the monthly charges can be system
9 generated. The usage charges, however, contain several components
10 and can vary by distance and the number of switches involved in
11 completing the call. If a CLEC purchases unbundled switching from
12 BellSouth, BellSouth will either render a manually calculated bill or
13 retain the usage until a system generated bill is available, whichever
14 the CLEC elects.

15

16

17

Checklist Item VII

18 Q. IS BELLSOUTH REQUIRED TO OFFER CLECS NON-
19 DISCRIMINATORY ACCESS TO 911 AND E911 SERVICE?

20

21 A. Yes, by section 251(c)(3) previously cited.

22

23 Section 271(c)(2)(B)(vii) also requires that BellSouth generally offer
24 "[n]ondiscriminatory access to 911 and E911 services."

25

ATTACHMENT 7

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Consideration of) Docket No. 960786-TL
BellSouth Telecommunications,)
Inc.'s entry into interLATA)
services pursuant to Section 271)
of the Federal)
Telecommunications Act of 1996.)

FOURTH DAY - AFTERNOON SESSION

VOLUME 16

Pages 1699 through 1754

PROCEEDINGS:

HEARING

BEFORE:

JULIA L. JOHNSON, CHAIRMAN
SUSAN F. CLARK, COMMISSIONER
J. TERRY DEASON, COMMISSIONER
DIANE K. KIESLING, COMMISSIONER
JOE GARCIA, COMMISSIONER

DATE:

Friday, September 5, 1997

TIME:

Commenced at 9:00 a.m.

PLACE:

Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY:

Lisa Girod Jones, RPR, RMR

APPEARANCES:

(As heretofore noted.)

BUREAU OF REPORTING

RECEIVED 9-8-97

DOCUMENT NUMBER DATE

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I N D E X

WITNESSES

NAME

PAGE NO.

ROBERT C. SCHEYE

Cross Examination by Ms. Kaufman
Cross Examination by Ms. Wilson
Cross Examination by Mr. Melson
Cross Examination by Mr. Tye

1706
1719
1720
1724

1 CROSS EXAMINATION

2 BY MS. KAUFMAN:

3 Q Thank you. Mr. Scheye, do you have Exhibit 31
4 there?

5 A Yes, I believe I do. Yes, I do. Thank you.

6 Q I want to first start with your response, the
7 second sentence there, where it says, "BellSouth has the
8 capability of generating a mechanized bill for all UNES
9 except operator services and DA." Do you see that?

10 A Yes.

11 Q Mr. Scheye, you were on the stand Tuesday,
12 weren't you?

13 A Yes, twice.

14 Q Do you recall Mr. Tye of AT&T discussing with
15 you the bills that AT&T has received for unbundled
16 network elements?

17 A Yes.

18 Q And I'm just going to go through a few Q
19 and A's so we can establish that this was your testimony
20 on Tuesday.

21 A Sure.

22 Q First question by Mr. Tye was: "Now
23 Mr. Scheye, also as a part of unbundled network
24 elements, there would be switching costs associated with
25 this service; is that correct?"

1 Your answer was, "Yes, could be."

2 Mr. Tye asked you, "Okay. There is no
3 switching cost contained on these bills; is that
4 correct?"

5 Your answer: "Correct."

6 Mr. Tye next asks: "Is that because BellSouth
7 is unable currently to render an electronic bill for
8 switching of unbundled network elements; is that
9 correct?"

10 And your answer: "For the usage component we
11 were unable to. The offer, or for any carrier
12 purchasing it, we will either render a manual bill or
13 hold the usage until we can bill it electronically, and
14 apparently AT&T did not want the manual bill."

15 Was that your testimony on Tuesday?

16 A Yes, it was.

17 Q Now do you recall that I also discussed this
18 topic of billing for usage-sensitive UNEs with
19 Mr. Milner?

20 A I believe I was here when you did cross
21 examine him on that.

22 Q And I referred Mr. Milner to that same topic
23 in his direct testimony. And again, I'm just going to
24 read you a couple Q and A's. My first question on that
25 topic was: "And in that passage" -- referring to his